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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

IN RE: ACTOS® (PIOGLITAZONE)
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

JUDGE DOHERTY

This Document Applies To:
Figuieredo v. Takeda Pharmaceuticals
USA, Inc., et al
Civil Action No. 6:13-cv-01995

MAGISTRATE JUDGE HANNA

RULING

Magistrate Judge Patrick Hanna has filed a Report and Recommendation [Rec. Doc. 123; MDL Rec. Doc. 6780] in which he recommends this Court dismiss the claims of plaintiff James Figuieredo without prejudice, due to failures to prosecute his case and to comply with the court's rules. For the reasons given below, this Court adopts the Report and Recommendation and dismisses Mr. Figuieredo's claims without prejudice.

As set out in the Report and Recommendation, Mr. Figuieredo is currently unrepresented, but was previously represented by Mr. Christopher Seeger. In response to Mr. Seeger's motion to withdraw as counsel of record [Rec. Doc. 113], Magistrate Judge Hanna ordered Mr. Seeger and Mr. Figuieredo to appear in Court [Rec. Doc. 114]. Mr. Figuieredo did not appear, and another attorney at Mr. Seeger's firm appeared by telephone, rather than Mr. Seeger himself. At the hearing, it was revealed that Mr. Figuieredo had been made aware of the hearing and the order to appear, notwithstanding that the Clerk of Court was unable to serve the order on him. Additionally, counsel indicated Mr. Figuieredo did not authorize counsel to dismiss his claim, notwithstanding counsel's determination that Mr. Figuieredo did not have a good faith claim [Rec. Doc. 123]. Magistrate Judge Hanna confirmed Mr. Figuieredo's last known address with counsel, granted the motion to withdraw, and ordered Mr. Figuieredo to appear a second time or risk a recommendation

his case be dismissed for failure to prosecute [Rec. Doc. 117]. The Clerk of Court attempted to serve this order on Mr. Figuieredo, but there is no indication in the record that service was completed, and Mr. Figuieredo, again, did not appear as ordered. [Rec. Doc. 123]

Given the lack of evidence in the record that Mr. Figuieredo was served, despite the fact that counsel were able to contact him using the same information possessed by this Court, and the lack of forward progress in this matter, Magistrate Judge Hanna concluded that Mr. Figuieredo has not kept the court apprised of his current contact information, as required by Local Rule 11.1, and/or that he has failed to prosecute his claims. Magistrate Judge Hanna therefore issued a Report and Recommendation, recommending that this Court dismiss this matter without prejudice [Rec. Doc. 123].

The Clerk of Court mailed the Report and Recommendation by first-class mail to Mr. Figuieredo's last known address on January 23, 2017. Out of an abundance of caution, the Clerk sent the Report and Recommendation again, this time by certified mail, on May 22, 2017. This Court has made all reasonable efforts to assure service of these documents has been made for the purpose of granting notice, the period for lodging objections to the Report and Recommendation has run, and no objection has been lodged. It has now been more than four months since the Clerk of Court's initial attempt to serve Mr. Figuieredo by first-class mail to his last known address, and three weeks since the Clerk attempted service by certified mail to the same address, and there has been no response to either. Consequently, this Court dismisses the claims of Mr. Figuieredo without prejudice.

IT IS HEREBY ORDERED the claims of James Figuieredo are DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED a copy of this Ruling be served on Mr. Figuieredo at his last known address, 1189 Camp Rock Road, Lucerne Valley, CA 92356, *via* certified mail, return receipt requested.

THUS DONE AND SIGNED in Lafayette, Louisiana, this 12 day of June, 2017.



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE